

1 Donald Williams
2 44 1/2 S. Division Apt., 37
Grand Rapids, MI., 49503

Honorable Robert Holmes Bell

Chief United States District Judge

3 Joseph G. Scoville
4 U.S. Magistrate Judge

*In The United States District Court
For The Western District Of Michigan*

7 Donald Williams,) Case No.: 1:06-cv-635
8 Plaintiff,)
9 vs.) Opposition To Defendants Motion For
10 Grand Rapids Public Library,) Summary Judgment
11 Defendant)
)

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RONALD C. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: *gf* /

12 COMES NOW, the Plaintiff Donald Williams, with his Opposition To Defendants Motion
13 For Summary Judgment.

14 **I. OPPOSITION TO DEFENDANTS MOTION FOR SUMMARY**
15 **JUDGMENT**

16 **A. STATEMENT OF THE CASE**

17 1. Plaintiff filed violations of constitutional rights based on Defendant's conduct and
18 actions involving two incidents. Plaintiff asserted Defendant's process or custom
19 or policy of banning or barring Plaintiff from Grand Rapids Public Library (GRPL)
20 for viewing a nude picture is deprivation of Plaintiff's Civil Rights and Defendant's
21 malicious conduct and callous actions are racial discrimination, segregation and
22 harassment. See Plaintiff Complaint, Motion To Amend Pleadings, First
23 Amended Complaint, Motion For Summary Judgment and Exhibits 1 through 6.
24

1 2. Plaintiff asserted Defendant racially segregated Plaintiff from GRPL for viewing a
2 single nude picture with no interned or website markings where similar "White
3 Citizens" are allowed to view pornography in GRPL. Plaintiff asserted violations
4 of the First, Fourth, Fifth, Eight and Fourteenth Amendments to the Constitution
5 of the United States with Federal Law violations of racial discrimination (42
6 U.S.C.A. § 2000a, 2000a (d), 2000d), segregation (42 U.S.C.A. § 2000a, 2000a
7 (d), 2000d) (MCL 37.2302) and harassment (MCL 600.2907). See Plaintiff
8 Complaint, Motion To Amend Pleadings, First Amended Complaint, Motion For
9 Summary Judgment, Exhibits 1 through 6.

10 **B. FACTUAL SUMMARY**

- 11 1. Plaintiff's segregation was over viewing a single half nude picture with no internet
12 or website markings for about five seconds at about 2:15 pm not 2:05 pm. (See
13 Plaintiff's Complaint (B)(a)(1), Motion To Amend Pleadings(B)(a)(3) and First
14 Amended Complaint (B)(a)(3), Affidavit Of Donald Williams (A)(1) first sentence
15 and Williams Dep. pg. 82-85, 108, 122-123).
- 16 2. Plaintiff has stated under penalty of perjury that no other conversation transpired
17 (See Williams Dep., pg. 81-86, 95, 97-103, 108) and Plaintiff dose not have
18 wireless internet and was not connected to the internet at the time of the incident
19 (See Williams Dep., pg. 73,75, 77, 79, 82, 97). Plaintiff did not argue but
20 cooperated with Tim as instructed and left GRPL for viewing a nude picture. See
21 Plaintiff's Complaint (B)(a)(1), Motion To Amend Pleadings (B)(a)(3) and First
22 Amended Complaint (B)(a)(3), Exhibit 1 last paragraph and Exhibit 2(A)(1) and
23 Williams Dep., pg 82-85, 108, 122-123.
- 24
- 25

- 1 3. There is no statement in Tim Gleisner Affidavit that Tim asked or told Plaintiff to
2 turn off his laptop computer (See Defendant's Motion For Summary Judgment
3 pg. 2, 2nd paragraph, 3rd sentence and Tim Gleisner Affidavit). Tim immediately
4 ban or barred Plaintiff at the time of the incident and this is the reason there was
5 no argument because Plaintiff immediately packed up his laptop computer and
6 proceeded to leave and asked Tim his name. (See Plaintiff's Complaint
7 (B)(a)(1), Motion To Amend Pleadings(B)(a)(3), First Amended
8 Complaint(B)(a)(3) and Williams Dep., pg. 79-81).
- 9 4. Defendant statement that Plaintiff was less interested in redressing his complaint
10 is presumptuous (See Defendant Motion For Summary Judgment pg. 3). (See
11 Plaintiff's Complaint (B)(a)(2), Motion To Amend Pleadings (B)(a)(4), First
12 Amended Complaint (B)(a)(4), Exhibit 1, 3rd and last paragraphs and Williams
13 Dep., pg. 89-90).
- 14 5. Defendant asserts William Baldridge spoke to Plaintiff on September 15, 2005
15 (See Defendant's Motion For Summary Judgment pg. 3, 2nd paragraph, 1st
16 sentence). Plaintiff spoke with Mr. Baldridge on September 21, 2005 (See
17 Plaintiff's Complaint, Motion To Amend Pleadings, First Amended Complaint and
18 Exhibits 1 and 2).
- 19 6. Just what does all Defendant's assertions mean? (See Defendant's Motion For
20 Summary Judgment pg. 3 and 4). Is Defendant asserting that Plaintiff was or is
21 precluded from filing deprivation of Civil Rights and violations of Federal Law
22 against Defendant because of Plaintiff's previously filed litigation or Plaintiff's
23 employment status (42 U.S.C. Sec. 1983)? At the time of the incident Plaintiff
24 cooperated with Defendant's instructions to leave GRPL and procedure in filing a
25 "Suggestion Form" as a complaint. Furthermore, let the court reflect Plaintiff

1 used a third party person to conduct Plaintiff's discovery. The significance of
2 Plaintiff's action in historical context is Plaintiff has taken a stand against
3 violations of Plaintiff's Civil Rights and being racial discriminated against,
4 harassed and slandered by "White Supremacy Persons, Racists Or Groups."
5 And, whether Plaintiff uses GRPL to do legal research with precision or not
6 Plaintiff has a Civil Right to do so before, during and after this litigation (Const.
7 Amend. 14).

8 7. Plaintiff informs the court that Plaintiff had to warn defense counsel Mr. Ophoff
9 not to intimidate Plaintiff for release forms in Plaintiff's deposition (See Williams
10 Dep., pg. 6-7, 28). Because, Plaintiff had answered Mr. Ophoff's question and it
11 was Plaintiff's Civil Right (14th Amendment) to deny Mr. Ophoff release forms.
12 Furthermore, Plaintiff has a Civil Right to file a complaint with Defendant (Not A
13 Suggestion Form from which no response would be replied, Const. Amend. 1)
14 and to expect a reply! From Defendant's assertions the Plaintiff is not entitled to
15 a response from Defendant's "Suggestion Form" or a resolution of differences or
16 to redress deprivation of Civil Rights and violations of Federal Laws by "White
17 Supremacy Racist Persons Or Groups." (42 U.S.C. Sec. 1983, Const. Amend 14
18 Sec. 1).

19 8. Parties are given power to join claims and parties in a single suit, FRCP Rule 13,
20 14, 18, 20, 24. They are given latitude to plead all possible claims, FRCP Rule
21 8(a), 8(e)(2), 11. Pleadings are liberally construed, FRCP Rule 8(f); Conley v.
22 Gibson, 355 U.S. 41 (1957). Amendments freely allowed, FRCP Rule 15(a).
23 Even if amendments are not offered the court can treat the pleadings **as though**
24 they had been amended when justice requires (FRCP Rule 15(b)) and may grant
25 parties the relief to which they are entitled even though they never asked for it

1 (FRCP Rule 54(c)). Also, Amended Pleadings relate back to the original, FRCP
2 Rule 15(c)(1)(2).

3 9. But once the parties have had opportunity to be heard all indulgences comes to
4 an end. Plaintiff had an obligation to Amend his Pleadings and assert his claims
5 where the doctrine of "Res Judicata" guards the doors of re-litigating a complaint!
6 All Plaintiff's pleadings are filed within the scope of FRCP. Furthermore, Plaintiff
7 would have this Court reflect Plaintiff used a third party person to conduct his
8 discovery and discovery did not close until June 15 2007. See Plaintiff's Exhibit
9 4 and 5. Plaintiff's Amended Pleading relates back to the original (FRCP Rule
10 15(c)(1)(2)) and in a "motion to dismiss, the material allegations of the complaint
11 are taken as admitted." Walter Process Equipment v. Food Machinery, 382 U.S.
12 172 (1965).

13 10. Defendant asserts that Plaintiff computer screen is facing away from Mr. Gleisner
14 (See Defendant's Motion For Summary Judgment and reference Williams Dep.,
15 at p. 49). See Plaintiff's Motion To Amend Pleadings (B)(a)(2 and 3), First
16 Amended Complaint (B)(a)(2 and 3) and Affidavit Of Donald Williams (A)(1).

17 11. Plaintiff will let this court and or the jury draw the conclusion as to what Mr.
18 Gleisner was referencing by the conduct of Defendant violating Defendant's own
19 policy and actions of Defendant treating Plaintiff differently rather than similar.
20 See Plaintiff's Motion For Summary Judgment (B)(1)(7-13) and (B)(2)(12-13) and
21 Exhibits 4 and 5.

23 12. In Plaintiff's deposition Plaintiff asserted to Mr. Ophoff that Defendant did re-
24 approach Plaintiff the second time and that it did happen under penalty of
25 perjury. See Plaintiff's Motion To Amend Pleadings, First Amended Complaint,
Exhibit 2 and Williams Dep., pg. 102 through 104.

1 13. Defendant violates LCivR 7.1 by sending a letter to Magistrate Judge Scoville.
2 Defendant did not seek Plaintiff's acquiescence to Defendant's "Motion For
3 Summary Judgment" in violation of LCivR 7.1(d). Defendants "Motion For
4 Summary Judgment did not affirmatively state the efforts of the Defendant's
5 compliance with the obligation created by rule LCivR 7.1(d). Defendant is in
6 violation of FRCP Rule 5(a)(b) where Plaintiff has not received Defendant's
7 Judges Copy sent to Magistrate Judge Scoville. Furthermore, according to the
8 mandates of Const. Amend. 14 and 42 U.S.C. section 1983 a person's right to
9 good name, reputation, honor & integrity are important and must be protected by
10 courts. Warren v. National Ass'n of Secondary School Principals, D.C.Tex.1974,
11 375 F.Supp 1043. Michigan Penal Code 750.370 Falsely and maliciously
12 accusing another of crime. Poirer v. Hodges, D.C.Fla.1978, 445 F.Supp 838.
13 Defendant's conduct and actions of slandering Plaintiff by filing Defendants
14 "Motion for Summary Judgment" with no factual evidence or support Plaintiff
15 perjured testimony is criminal. See Defendant's Proof of Service dated July 16th,
16 letter to Judge Scoville dated July 17th, and Motion For Summary Judgment. For
17 reasons above Defendant's "Motion for Summary Judgment" should be DENIED
18 (FRCP Rule 11(a)(b)(c)).

19 **C. LAW AND ARGUMENT**

21 **1. Summary Judgment Standard**

22 1. FRCP Rule 56(c) In the present case Defendant has rested upon mere
23 allegations and denials of Plaintiffs' pleadings and has not set forth specific
24 evidence showing that there is a genuine issue for trial. Celtics Corp. v. Catrett,

1 477 U.S. 317, 325 (1986). Daniel v. Cantrell, 375 F.3d 377, 381 (6th Cir. 2004).

2 FRCP Rule 56(e).

- 3 2. There is no genuine issue as to any material fact under Rev. Stat. § 1979. See
4 Plaintiff's Motion To Amend Pleadings, First Amended Complaint and Exhibit 1
5 through 6. Marshall v. Sawyer, 301 F.2d (at page 646), Cohen v. Norris, 300
6 F.2d 24 (9th Cir. 1962) (at page 30). Screws v. United States, 325 U.S. 91, 111,
7 65 S.Ct. 1031, 89 L.Ed, 1495.
- 8 3. There is no genuine issue as to any material fact Defendant "implicitly authorized
9 and approved a process or custom or policy that abridges Plaintiff's Civil Rights
10 and knowingly acquiesced the unconstitutional conduct of the offending
11 employee Tim." See Plaintiff's Exhibit 1 through 6 and 6(A) Request For
12 Admission No. 8. Leach v. Shelby County Sheriff, 891 F.2d 1241, 1246 (6th Cir.
13 1989 (citing Hays v. Jefferson, 668 F.2d 869, 874 (6th Cir. 1982)).
- 14 4. There is no genuine issue as to any material fact Defendant violating Defendant's
15 own process or custom or policy and treating Plaintiff differently rather than
16 similar. County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708,
17 1716 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at
18 1719. County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708, 1716
19 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at 1719.
20 See Plaintiff's Exhibits 1 through 6 and 6(A) Request For Admission No. 8.
- 21 5. There is no genuine issue as to any material fact Defendants process or custom
22 or policy and conduct and actions are not rationally or substantially related to a
23 legitimate governmental objective. City of Cleburne v. Cleburne Living Center,
24 Inc., 473, 439 (1985). Id., 440. City of New Orleans v. Dukes, 427, U.S. 297,
25 303 (1976). See Plaintiff's Exhibits 1 through 6.

- 1 6. There is no genuine issue as to any material fact Defendants process or custom
2 or policy and conduct and actions involve the "exercise of power without
3 reasonable justification in any service of a legitimate governmental objective."
4 County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708, 1716
5 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at 1719.
6 See id. at 850-52, 118 S. Ct. at 1718-19.
- 7 7. There is no genuine issue as to any material fact that Plaintiff can prove facts in
8 support of Plaintiff's claims which would entitle Plaintiff to relief (Rev. Stat. §
9 1979). See Plaintiff's Exhibits 1 through 6. Conly v. Gibson, 355 U.S. 41, 45-46,
10 78 S.Ct 99, 101, 102, 2L.Ed, 2d 80. Celotex Corp. v. Catrett, 477 U.S. 317, 323
11 (1986).
- 12 8. There is no genuine issue as to any material fact Plaintiff's evidence is one-sided
13 and so powerfully overwhelming that no reasonable trier of fact or jury would
14 disbelieve it. See Plaintiff's Exhibits 1 through 6. Arnett, 281 F.3d at 561. There
15 is no sufficient disagreement to require submission to a jury. Anderson v. Liberty
16 Lobby. Inc., 477 U.S. 242, 251-52 (1986).

18 **2. 42 U.S.C. § 1983**

- 19 1. 42 U.S.C. § 1983 embraces deprivation of both due process of law and equal
20 protection of laws. It contemplates such deprivation through unconstitutional
21 application of law by conspiracy or otherwise and it permits damages, including
22 punitive damages. See Plaintiff's Exhibit 3. Mansell v. Saunder, C.A.Fla.1967,
23 372 F.2d 573. Monroe v. Pape, 365, U.S. 167, 187, 81 S.Ct 473, 5 L.Ed.2d 492.
- 24 2. Action based on this section providing that every person who under color of any
25 statute, ordinance, etc., of any state or territory subjects any citizen of United

1 States or other person within jurisdiction thereof to deprivation of any rights,
2 privileges or immunities secured by the Constitution and laws shall be liable to
3 injured party is not limited to due process, but extends also to denial of equal
4 protection. Hoffman v. Halden, C.A.Or.1959, 268 F.2d 280.

5 3. Defendant's violation of Defendant's own process or custom or policy should be
6 characterized as intentional, unjustified, brutal and offensive to Plaintiff's dignity
7 and violates Plaintiff's Constitutional Right to due process and equal protection.

8 Meredith v. State of Ariz., C.A.Ariz1975, 523 F.2d 481. Defendant violating
9 Defendant's own process or custom or policy and treating Plaintiff differently
10 rather than similar should be characterized as a lack of ascertainable standards
11 which violates Plaintiff's Constitutional Right of due process and equal protection.

12 Barnes v. Merritt, C.A.Ga.1967, 376 F.2d 8. So long as the conduct of Defendant
13 is done under color of law and deprives a Plaintiff of a Civil Right Defendant is
14 liable for the consequences of his acts in a Civil Rights case. Aldridge v. Mullins,
15 D.C.Tenn, 1972, 377 F.Supp 850.

16 4. Plaintiff's "Liberty Interest" to access and use GRPL facilities should be
17 characterized as a fundamental right protected by the Fourteenth Amendment as
18 part of the Plaintiffs right to public library facilities the government is required to
19 protect and as part of Plaintiffs right not to be subjected to punishment without
20 due process. Wilson v. Seiter, 501 U.S. 294, 304, 111 S. Ct. 2321, 2327 (1991).

21 Plaintiff's "Liberty Interest" to access and use public library facilities is a matter of
22 "Liberty" and freedom and is a fundamental right subject to due process and
23 equal protection. DeShaney v. Winnebago County Dep't of Soc. Servs., 489 U.S.
24 189, 200, 109 S. Ct. 998, 1006 (1989).

5. Defendant affirmatively and by omission, with regard to Plaintiff's Civil Rights to public facilities, authorized, approved and adopted a process or custom or policy that abridges Plaintiff Civil Rights (West v. Atkins, 487 U.S. 42, 48 (1988); Redding v. St. Edward, 241 F.3d 530, 532 (6th Cir. 2001)) and knowingly acquiesced in the unconstitutional conduct of the offending employee, Tim. See Plaintiff's Motion To Amend Pleadings, First Amended Complaint and Exhibits 1 through 6. Leach v. Shelby County Sheriff, 891 F.2d 1241, 1246 (6th Cir. 1989) (citing Hays v. Jefferson, 668 F.2d 869, 874 (6th Cir. 1982)).

6. "In substantive due process analysis it is the State's affirmative act of restraining, preventing, or restricting the individual's freedom to act on his own behalf which is the deprivation of the freedom of liberty triggering the protections of the Due Process and Equal Protection Clause." Where Defendant violates Defendant's own process or custom or policy and treats Plaintiff differently rather than similar the Defendant's conduct shocks the conscience because Defendant is deliberately malicious to Plaintiff and callously indifferent to Plaintiff's Civil Rights.

County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708, 1716 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at 1719. Where there is an opportunity to deliberate, the deliberate indifference standard is appropriate. See id. at 850-52, 118 S. Ct. at 1718-19. See Plaintiff Exhibits 1 through 6(A) Request For Admission No. 8.

3. Plaintiff's First Amendment Claim

1. Plaintiff's claims indicate a deprivation of First Amendment Right to redress grievance and to challenge Defendant in having no form of redress. See Plaintiff's Motion To Amend Pleadings (D)(g) and First Amended Complaint (D)(8).

- 1 2. From Defendants "Suggestion Form" which Plaintiff filed with Defendant (See
2 Plaintiff's Exhibit 1). Defendant has not responded or replied in an effort to
3 resolve differences to this date. Defendant's "Suggestion Form" is insufficient
4 form of redress for deprivation of Plaintiff's Civil Rights and violations of Federal
5 Laws where Defendant has no formal way to respond and fails to reply by
6 "Suggestion Form".
- 7 3. Plaintiff has shown Plaintiff's "Liberty Interest" to access and use public library
8 facilities is a fundamental right subject to due process and equal protection.
9 DeShaney v. Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 200, 109 S.
10 Ct. 998, 1006 (1989). See Plaintiff's Motion To Amend Pleading, First Amended
11 Complaint and Exhibits 1 through 6.
- 12 4. The Plaintiff has shown Defendant violated the equal protection clause. See
13 Plaintiff Exhibits 1 through 6(A) Request For Admission No. 8, Motion For
14 Summary Judgment (B)(2)(12). Washington v. Davis, 426 U.S. 229, 239 (1976).
15 Lautermilch v. Findlay City Schools, 314 F.3d 271, 275-276 (6th Cir. 2003).
16 McDonnel Douglas Corp. v. Green, 411 U.S. 792, 802 (1973).
- 17 5. The Plaintiff has shown Defendant violated the due process clause. See Plaintiff
18 Exhibits 1 through 6(A) Request For Admission No. 8, Motion For Summary
19 Judgment (B)(2)(13). Holbrook v. Pitt, 643 F.2d 1261, 1276-1277 (7th Cir. 1981).
20 Davis v. Mansfield Metropolitan Housing Authority, 751 F.2d 180, 184 (6th Cir.
21 1984). Parate v. Isibor, 868 F.2d 821, 831 (6th Cir. 1989).
- 22 6. The Defendant's actions involve "the exercise of power without reasonable
23 justification in the service of a legitimate governmental objective". See id. at 846-
24 850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at 1719. See Plaintiff's Exhibits
25

1 through 6. Because Defendant violated Defendant's own process or custom or
2 policy and treated Plaintiff differently rather than similar.

3 7. There has been infringement of rights, subject to due process and equal
4 protection and review under rational basis is inappropriate. DeShaney v.
5 Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 200, 109 S. Ct. 998, 1006
6 (1989). There is no rational basis in Defendant's process or custom or policy of
7 including pornography in Defendant's print collection and deeming it
8 inappropriate for viewing in GRPL (United States v. American Library
9 Association, 539 U.S. 194 (2003)). Id. at 208. There is no rational basis in
10 Defendant's process or custom or policy of blocking internet pornography and
11 having and allowing the viewing of pornography in GRPL print collection. There
12 is no rational basis in Defendant's process or custom or policy of deeming
13 pornography inappropriate for viewing in GRPL and allowing the viewing of
14 pornography by "White Citizens" in GRPL. There is no rational basis in
15 Defendant process or custom or policy or conduct and actions of treating Plaintiff
16 differently by segregating Plaintiff for viewing a nude picture rather than treating
17 Plaintiff as similar "White Citizens" who are allowed to view pornography in GRPL
18 City of Cleburne v. Cleburne Living Center, Inc., 473, 439 (1985). Id., 440.
19 There is no rational basis for the Defendant affirmatively and by omission
20 authorize, approve and adopt a process or custom or policy that abridges Plaintiff
21 Civil Rights (West v. Atkins, 487 U.S. 42, 48 (1988); Redding v. St. Edward, 241
22 F.3d 530, 532 (6th Cir. 2001)) and knowingly acquiesced in the unconstitutional
23 malicious and callous conduct of the offending employee, Tim, (Leach v. Shelby
24 County Sheriff, 891 F.2d 1241, 1246 (6th Cir. 1989) (citing Hays v. Jefferson, 668
25 F.2d 869, 874 (6th Cir 1982)). See Plaintiff's Motion For Summary Judgment

(B)(1)(7)(a-i) and Exhibits 1 through 6(A) Request For Admission No. 8. It is not rational where Defendants judgments (in allowing "Whites" to view pornography) made for different reasons (of banning or barring "Blacks" for viewing a nude picture) are not made for the same purpose (in prohibiting nudity in GRPL). United States v. American Library Association, 539 U.S. 194 (2003)). Id. at 203, 206, 208. It makes no sense for Defendant to fail to ensure a rational means to further a legitimate governmental interest or objective. City of Cleburne v. Cleburne Living Center, Inc., 473, 439 (1985). Id., 440. City of New Orleans v. Dukes, 427, U.S. 297, 303 (1976).

8. Defendant continues to have an obligation and overwhelming failed to comply with Title VI of the Civil Rights Act of 1964 and deprived Plaintiff due process and equal protection of the law (Const. Amend. 14). Even if Defendant's assertion that library rules for internet pornography applied. Defendant overwhelming failed to comply with the equal protection clause of the 14th Amendment and Title VI of the Civil Rights Act of 1964 in violating Defendant's own process or custom or policy of having pornography in GRPL print collections (See United States v. American Library Association, 539 U.S. 194 (2003). See Id. at 208) and deeming pornography inappropriate for viewing while allowing similar "White Citizens" to view pornography in GRPL and banning or barring Plaintiff for viewing a nude picture. Defendant further violated Defendant's process or custom or policy by treating Plaintiff differently by banning or barring Plaintiff for viewing a nude picture rather than treating Plaintiff as similar "White Citizens" who are allow to view and checkout pornography in GRPL (Title VI of the Civil Rights Act of 1964). Defendant deprived Plaintiff due process and equal protection of the law. Const.

1 Amend. 1, 4, 5, 8, 14, 42 U.S.C.A. § 2000a, 2000a(d), 2000d, MCL 600.2907.

2 See Plaintiff Exhibits 1 through 6.

3 9. Defendant's process or custom or policy requires the highest scrutiny test
4 because the only sense Defendant's process or custom or policy and conduct
5 and action make is that Defendant is "White Supremacy Racist Persons Or
6 Groups." Defendant's conduct shocks the conscience because Defendant is
7 deliberately malicious to Plaintiff and callously indifferent to Plaintiff's Civil Rights.

8 County of Sacramento v. Lewis, 500 U.S. 233, 846, 118 S. Ct. 1703, 1710
9 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at 1719.

10 See Plaintiff Exhibits 1 through 6(A) Request For Admission No. 8.

11 10. Under First Amendment analysis Plaintiff has a "Liberty Interest" to protect.
12 Plaintiff has a right to redress and challenge Defendants process or custom or
13 policy of banning or barring Plaintiff from GRPL for viewing a nude picture in the
14 due process and equal protection clause (Const. Amend. 14) which Defendant
15 denied Plaintiff. Plaintiff also had a right to redress violation of Federal Laws
16 which Defendant denied Plaintiff in having no from of redress (Const. Amend. 1).

17 Title VI of the Civil Rights Act of 1964.

19 **4. Plaintiff's Due Process Claims**

20 1. Plaintiff facts show a recognized "Liberty Interest" and the abridgement of that
21 right without appropriate process (See Plaintiff's Motion For Summary Judgment
22 (B)(1)(4 – 8 and Exhibits 1 through 6). Wilson v. Seiter, 501 U.S. 294, 304, 111
23 S. Ct. 2321, 2327 (1991).

24 2. Defendant asserts Plaintiff's "Liberty Interest" to access and use GRPL was
25 reconstituted when Plaintiff returned to file a complaint. Plaintiff's return to GRPL

1 was nothing more than to file a complaint with Defendant (See Plaintiff's Exhibit
2 1). After speaking with Mr. Baldridge Plaintiff continued his segregation (See
3 Plaintiff's Motion to Amend Pleadings, First Amended Complaint (B)(a)(4) and
4 Exhibits 1 through 6.

5 3. The nature of the allegations and claims of Plaintiff concludes the procedural due
6 process Plaintiff was due on September 21, 2005 needed to be extensively
7 formal (See Plaintiff's Motion To Amend Pleadings (D), First Amended Complaint
8 (D)). The oral complaint to Assistant Library Director William Baldridge and
9 written "Suggestion Form" for Plaintiff's segregation on September 21, 2005 has
10 not been adequately resolved to this date. Defendant has made a law or
11 prohibited and abridged the right of the Plaintiff to petition the Government for a
12 redress of grievances and to challenge Defendant (Const. Amend. 1). Plaintiff
13 asserts any infringement of Plaintiff's Civil Rights and violation of Federal Laws
14 whether for one hour, six hours, one day or one month is actionable under this
15 section for redress (42 U.S.C. § 1983, Const. Amend. 14, Const. Amend. 1,
16 Williams Dep., pg. 102-104, 108-109, 122-124). The facts show Defendant's
17 "Suggestion Form" is inadequate complaint procedure and Plaintiff was not
18 accorded appropriate process on September 21 2005.

19 4. Defendant is guilty of an arbitrary and capricious process or custom or policy
20 whose conduct and action and "Suggestion Form" do not relate to a legitimate
21 governmental interest or objective. Seal, 229 F.3d at 574-75 (citing Washington
22 v. Glucksberg, 521 U.S. 702, 720, 117 S. Ct. 2258, 2267 (1997)). Kallstrom v.
23 City of Columbus, 136 F.3d 1055, 1060 (6th Cir. 1998). See Plaintiff Exhibits 1
24 through 6(A) Request For Admission No. 8.
25

1 5. Defendant's conduct of violating the Defendant's own process or custom or policy
2 is "extremely egregious" and racially prejudicial in treating Plaintiff differently
3 rather than as similar "White Citizens. Plaintiff's evidence indicates Defendant is
4 guilty of extremely egregious arbitrary and flagrant conduct (See Plaintiff's Motion
5 For Summary Judgment (B)(1)(7)(a-i) and Exhibits 1 through 6). There are no
6 facts or evidence to suggest Plaintiff manipulated any circumstance. The facts
7 and evidence presented to this Court by Plaintiff where all conducted according
8 to the statute of limitations of Sec. 1983, the FRCP and Plaintiff's third party
9 person.

10 **5. Plaintiff's Search and Seizure and Cruel and Unusual Punishment
11 Claims**

- 12 1. Plaintiff's search and seizure and cruel and unusual punishment claims are
13 supported (See Plaintiff's Motion To Amend Pleadings (D)(c)(e), First Amended
14 Complaint (D)(4)(6)) and Exhibits 1 through 6). Plaintiff asserted Tim Gleisner,
15 an employee of GRPL, purposefully, willfully and intentionally discussed the issue
16 of catching Plaintiff in some GRPL policy violation with a fellow employee. Who,
17 Tim Gleisner, then 10 minutes later moved behind Plaintiff and stood watching
18 and viewing what Plaintiff was doing on Plaintiff's laptop computer waiting and
19 watching for an occasion to accuse Plaintiff of some GRPL policy violation. (See
20 Plaintiff's Motion To Amend Pleadings (B)(a)(2-3), First Amended Complaint
21 (B)(a)(2-3) and Williams Dep., pg. 61-64).
22
23 2. And, Tim Gleisner, upon seeing a single nude picture displayed on Plaintiff's
24 laptop computer for about 5 seconds segregated Plaintiff from GRPL without so
25 much as common courtesy or generosity in giving Plaintiff a warning that viewing
nude pictures was prohibited (Just Get Out Of GRPL). Plaintiff deleted the

1 picture from his laptop computer almost as fast as the picture could be opened,
2 closed and deleted. Plaintiff asserts that in the circumstances of the incident Tim
3 purposefully, willfully and intentionally intended to ban or bar Plaintiff because
4 Tim knew he was authorized to do so, which is why there was no argument, the
5 Plaintiff had to leave! This is why Tim provokingly re-approached and intimidated
6 Plaintiff one or two weeks later because Tim knew he was authorized to ban or
7 bar Plaintiff. Monroe v. Pape, 365, U.S. 167, 187, 81 S.Ct 473, 5 L.Ed.2d 492.
8 Plaintiff's Amended Complaint relates back to the original FRCP Rule 15(c)(1)(2).

- 9 3. The Defendant's racially discriminative conduct takes on meaning in the pattern
10 of Defendant's actions towards Plaintiff. Tim discusses catching Plaintiff with a
11 fellow employee and makes the statement "I'll Bet I Can Catch Him." Tim then
12 seeks an unprovoked occasion against Plaintiff in standing behind Plaintiff
13 watching a viewing what Plaintiff was doing on Plaintiff's laptop computer. Tim's
14 lack of common courtesy or generosity in giving Plaintiff a warning indicates his
15 willful, purposeful intentions in racially discriminating against Plaintiff by banning
16 or barring Plaintiff immediately for viewing a single nude picture for about five
17 seconds. And, one or two weeks later unprovoked Tim Gleisner re-approaches
18 Plaintiff again and provokingly intimidates Plaintiff about the incident which
19 previously occurred on 09/21/05. Tim's racial conduct is reflected in the context
20 Defendant violates Defendant own process or custom or policy of viewing
21 pornography in GRPL. And Defendant knowingly acquiesced in the conduct of
22 Tim. See Plaintiff's Motion To Amend Pleadings (B)(a)(2-5), First Amended
23 Complaint (B)(a)(2-5) and Exhibits 1 through 6.
- 24 4. Plaintiff's attempt to discuss the incident with Mr. Baldridge resulted in Mr.
25 Baldridge knowingly acquiescing in the unconstitutional conduct of the offending

1 employee Tim. Mr. Baldridge knowingly condoned the conduct of Tim baring
2 Plaintiff and informed Plaintiff that he, Mr. Baldridge, would take into
3 consideration giving a warning rather than just barring Plaintiff for viewing a nude
4 picture. See Plaintiff's Complaint (B)(a)(2), Motion To Amend Pleadings
5 (B)(a)(4), First Amended Complaint (B)(a)(4) and Exhibits 1 through 6(A) Request
6 For Admission No. 8. The flagrant conduct of Defendant lacked all generosity
7 and the only courtesy Defendant gave Plaintiff was a "Suggestion Form" which
8 Defendant knew no response would be replied.

- 9 5. 42 U.S.C.A. § 1983 provides redress for deprivation of any rights, privileges, or
10 immunities secured by the Constitution and laws of the United States against
11 persons acting under color of any statute, ordinance, regulation, custom, or
12 usage, of any State or Territory or the District of Columbia.
13
14 6. Plaintiff's "Liberty Interest" to access and use public library facilities is a
15 fundamental right subject to due process and equal protection. DeShaney v.
16 Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 200, 109 S. Ct. 998, 1006
17 (1989). Plaintiff's "Liberty Interest" is restrained in a manner similar to the
18 restraints on a prisoner's freedom. Meredith v. State of Ariz., C.A.Ariz1975, 523
19 F.2d 481.
20
21 7. Plaintiff's "Liberty Interest" to access and use GRPL facilities should be
22 characterized as a fundamental right protected by the Fourteenth Amendment as
23 part of Plaintiffs right to public library facilities the government is required to
24 protect (from unreasonable searches) and as part of Plaintiffs right not to be
25 subjected to punishment (cruel and unusual punishment) without due process.
Wilson v. Seiter, 501 U.S. 294, 304, 111 S. Ct. 2321, 2327 (1991). See Plaintiff's
Motion To Amend Pleading, First Amended Complaint and Exhibits 1 through 6.

1 **6. Plaintiff's Racial Discrimination Claims**

- 2 1. Plaintiff racial discrimination claim is based on the Defendant's violating
3 Defendant's process or custom or policy and conduct and actions of the
4 Defendant treating Plaintiff differently rather than similar in two different events.
5 Tim's conduct towards the Plaintiff is deliberate and malicious by Tim's
6 discussion with a fellow employee to catch Plaintiff in some public library policy
7 violation. Tim is willful, intentional and deliberate in standing behind Plaintiff
8 watching, waiting and viewing what Plaintiff was doing on Plaintiff's laptop
9 computer. Upon seeing a single nude picture displayed on Plaintiff's laptop
10 computer for about five seconds. Tim, without common courtesy or generosity to
11 give Plaintiff a warning exercises his authority to segregate Plaintiff from GRPL
12 for viewing a single nude picture for less than five seconds just because he could
13 and was authorized too (there is no sign in the area prohibiting the viewing of
14 nudity). And in the context of one or two weeks later unprovoked Tim Gleisner
15 re-approaches Plaintiff again and intimidates Plaintiff about the incident which
16 previously occurred on 09/21/05.
- 17 2. Plaintiff's discussion with Mr. Baldridge affirmed the Defendants abridging
18 Plaintiff Civil Rights to public facilities by process or custom or policy of barring
19 Plaintiff for viewing a nude picture and Mr. Baldridge knowingly condoned the
20 conduct of the offending employee Tim. See Plaintiff's Complaint (B)(a)(2),
21 Motion To Amend Pleadings (B)(a)(4), First Amended Complaint (B)(a)(4) and
22 Exhibits 1 through 6(A) Request For Admission No. 8.
- 23 3. Defendant violates Defendant's own process or custom or policy of having
24 pornography in GRPL print collections (See United States v. American Library
25 Association, 539 U.S. 194 (2003). See Id. at 208). Defendant deemed

1 pornographic pictures inappropriate for viewing in GRPL but allows similar "White
2 Citizens" to view pornography in GRPL. Defendant treated Plaintiff differently by
3 banning or barring Plaintiff for viewing a nude picture in GRPL rather than
4 treating Plaintiff as similar "White Citizens" who are allowed to view pornography
5 in GRPL. County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708,
6 1716 (1998). See id. at 846-850, 118 S. Ct. at 1717-18. Id. at 851, 118 S. Ct. at
7 1719. See Plaintiff's Exhibit 1, 2, 4, 5, and 6.

8 4. Defendant affirmatively and by omission, with regard to Plaintiff's Civil Rights to
9 public facilities implicitly authorized, approved and adopted a process or custom
10 or policy of banning or barring Plaintiff for viewing a nude picture that abridges
11 Plaintiff Civil Rights (West v. Atkins, 487 U.S. 42, 48 (1988); Redding v. St.
12 Edward, 241 F.3d 530, 532 (6th Cir. 2001)) and knowingly acquiesced in the
13 unconstitutional conduct of the offending employee, Tim. Leach v. Shelby
14 County Sheriff, 891 F.2d 1241, 1246 (6th Cir. 1989) (citing Hays v. Jefferson, 668
15 F.2d 869, 874 (6th Cir 1982). See Plaintiff's Complaint (B)(a)(2), Motion To
16 Amend Pleadings (B)(a)(4), First Amended Complaint (B)(a)(4) and Exhibits 1
17 through 6.

18 5. Defendant's process or custom or policy and conduct and actions are not
19 rationally or substantially related to a legitimate governmental objective. City of
20 New Orleans v. Dukes, 427, U.S. 297, 303 (1976). Id., 440. Defendant
21 purposefully, willfully, intentionally and deliberately racially discriminated against
22 Plaintiff. City of Cleburne v. Cleburne Living Center, Inc., 473, 439 (1985).

23 6. It is evident that Defendant's violation of Defendant's process or custom or policy
24 and Defendant's conduct and actions along with Plaintiff's exhibits 1 through 6
25 offer factual predicates for deprivation of Plaintiff's Civil Rights and violation of

1 Federal Laws based on 42 U.S.C. § 1983, 42 U.S.C. § 2000a, 2000a (d), 2000d
2 and MCL 600.2907 under due process and equal protection of the 14th
3 Amendment and Title VI of the Civil Rights act of 1964.

4

7. Plaintiff Segregation Claim

5

6 1. Let the court reflect that there is no genuine issue as to any material fact of
7 Plaintiff's segregation claim and that Plaintiff is entitled to judgment as a matter of
8 law. See Plaintiff First Amended Complaint (D)(3) and Motion For Summary
9 Judgment.

10

8. Plaintiff Harassment Claim

11

12 1. Let the court reflect that there is no genuine issue as to any material fact of
13 Plaintiff's harassment claim and that Plaintiff is entitled to judgment as a matter of
14 law. See Plaintiff First Amended Complaint (D)(5) and Motion For Summary
15 Judgment.

16

9. Objection To Defendant's Answer and Defenses

17

18 1. Plaintiff Objects to Defendants Answer and Affirmative Defenses (See
19 Defendant's Answer To Amended Complaint And Affirmative Defenses). (1) This
20 court has subject matter jurisdiction. Title 28 U.S.C.A. § 1331, 1332, 1343; Title
21 42 U.S.C.A. § 1983; Rev. Stat. § 1979. (2) Plaintiff has stated a claim upon
22 which relief can be granted under § 1983 and Rev. Stat. § 1979. (3) Defendant
23 is not immune from suite. Ex parte Young, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed.
24 714 (1908). Lawson, 211 F.3d at 334-335. (4) Plaintiff has stated a claim upon
25 which relief can be granted under § 1983 and Rev. Stat. § 1979. (5) Plaintiff has
stated a claim upon which relief can be granted under § 1983 and Rev. Stat. §
1979. (6) Plaintiff has stated a claim upon which relief can be granted under §

1 1983 and Rev. Stat. § 1979. (7) Plaintiff has stated a claim upon which relief can
2 be granted under § 1983 and Rev. Stat. § 1979. (8) Plaintiff has stated a claim
3 upon which relief can be granted under § 1983 and Rev. Stat. § 1979. (9) The
4 statute of limitations on § 1983 is one year. None of Plaintiff's claims are barred
5 by the statute of limitations in this § 1983 action. See Plaintiffs Complaint,
6 Motion To Amend Pleadings, First Amended Complaint, Motion For Summary
7 Judgment and Exhibits 1 through 6.

8 **D. CONCLUSION**

- 9
- 10 1. In Conley v. Gibson, 355 U.S. 41 at 48(1957) "The Federal Rules rejects the
11 approach that pleading is a game of skill in which one misstep may be decisive to
12 the outcome and accept the principle that the purpose of pleading is to facilitate a
13 proper decision on the merits" FRCP Rule 8(f). Thus, pleading is not to become
14 a decisive trap for the less skilled pro se. The Federal Rules do not require the
15 claimant to detail the facts upon which Plaintiff bases his claim. They only
16 require a "short and plain statement of the claim" that will give fair notice to the
17 Defendant of the claim and the grounds on which it rests. Any further facts
18 needed to define the scope of the claim can be obtained through discovery.
19 Plaintiff's Amended Complaint relates back to the original (FRCP Rule 15(c)(1-2))
20 and pro-se complaint requires a less stringent reading than one drafted by a
21 lawyer. Puckett v. Cox, (456 F2d 233 (1972 Sixth Circuit USCA)).
- 22 2. Plaintiff has in no wise manipulated any circumstance or violated any Rule in this
23 litigation. Rule 8(e)(2) allows a party to set forth two or more statements of a
24 claim in the alternative. This assists a Plaintiff who may be genuinely uncertain
25 about what substantive law will apply and what he will have to prove (Rule 18(a)).
Rule 8(e)(2) allows a Plaintiff to claim as many separate claims as he has

1 regardless of consistency. Rule 11 requires that the signature constitutes a
2 certification that there is good ground to support it and that it is not interposed for
3 improper purpose.

4 3. Defense counsel is an attorney who knows what the prerequisites for summary
5 judgment are. He also knows how to attack the credibility of a witness and
6 establish issues of material fact. Defendant's conjecture of Plaintiff history is out
7 of context in relation to Plaintiff's claims. Plaintiff has a right to redress and
8 Defendant has attacked and slandered Plaintiff's credibility in an effort to
9 establish grounds for a dispositive motion for summary judgment.

10 4. Defendant's sole evidence in support of Defendant's "Defense" is his own
11 conjecture and opinion that "Plaintiff has failed to state a claim upon which relief
12 can be granted" and "Library Rules relating to internet pornography apply."
13 Defendant's process or custom or policy makes is not rational and makes no
14 sense at all and Defendant's conduct and actions violate Civil Rights and racially
15 discriminate against and harass the Plaintiff.

16 5. Defendant's assessment is not evidence of his defense Wade v. Knoxville
17 Utilities Bd., 259 F.3d 452 (6th Cir. 2001). Conclusory allegations, improbable
18 inferences and unsupported speculation are not "evidence of the type or quality
19 adequate to stave off summary judgment within the context of McDonnell-
20 Douglas for discrimination claims." Pilgrim v. Trustees of Tufts College, 118 F.3d
21 864, 871 (1st Cir. 1997). See also Penny v. United Parcel Service, 138 F.3d 408,
22 415 (6th Cir. 1997).

24 6. The federal courts require that the classification challenged be rationally related
25 to a legitimate state interest. City of New Orleans v. Dukes, 477 U.S. 297, 303
(1976). When a law impacts a "suspect class" (such as race) or invades

1 "fundamental rights" (such as "due process and equal protection") will the courts
2 impose the more rigorous strict scrutiny test. City of Cleburne, 473 U.S. at 440.

3 7. This Court should be reluctant to dismiss this complaint unless it appears beyond
4 doubt that Plaintiff can prove no set of facts in support of his claim which would
5 entitle Plaintiff to relief. Conley vs. Gibson, 355 U.S. 41(1957).

6 8. This Court should scrutinized the variance in Defendant's process or custom or
7 policy and reflect on Defendant's conduct and actions and place under a
8 magnifying glass the fact Defendant treated Plaintiff differently rather than similar.
9 Plaintiff can prove intentional discrimination of state actor by both methods. (A)
10 That Defendant treated Plaintiff differently because he is a "Black Man" rather
11 than as similar "White Citizens." (B) The Defendant's conduct and actions
12 evidence (1) Plaintiff belongs to a protected minority group (2) Plaintiff was
13 entitled to public library facilities (3) Plaintiff was denied the benefit of public
14 library facilities (4) Similar "White Citizens" are allowed to view nudity in GRPL
15 where Plaintiff "Black Man" is not. Plaintiff has shown direct evidence that the
16 Plaintiff "A Black Minority" is impacted by Defendant's process or custom or
17 policy with regard to race or color and the Defendant's conduct and actions have
18 an adverse impact on Plaintiff and "Minorities As A Group". Wards Cove Packing
19 Co. v. Atonio, 490 U.S. 642 (1989). See Plaintiff's Exhibits 1 through 6.

20 9. Because the Defendant conduct is criminal and violates the FRCP. And,
21 because Defendant violates Defendant's own process or custom or policy and
22 whose conduct and actions are racially discriminative both to Plaintiff and to
23 Plaintiff's Civil Rights. The Plaintiff is entitled to judgment as a matter of law.
24 Plaintiff's factual evidence is one-sided and so powerfully overwhelming that no
25 trier of fact would reasonably submit it to a jury. Arnett, 281 F.3d at 561. No jury

would disbelieve Defendant overwhelming failed to comply with Title VI of the Civil Rights Act of 1964 and caused Plaintiff the denial of the full rights and privileges of a place of public accommodation or a place of public use. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251-52 (1986).

WHEREFORE, Plaintiff Prays this Honorable Court, DENY Defendant's and GRANT Plaintiff's Motion For Summary Judgment.

Dated This Tuesday, August 21, 2007

By:

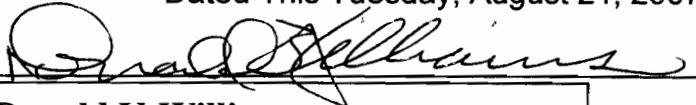

Donald V. Williams
44 ½ S. Division St., SE., Apt., 37
Grand Rapids, MI., 49503

E. CERTIFICATION OF MAILING

I do hereby certify that on the 21st day of August, 2007. I mailed a true and correct copy of the above and foregoing instrument to Daniel A. Ophoff, Assistant City Attorney, 620 City Hall, 300 Monroe Ave., NW, Grand Rapids, MI., 49503.

Dated This Tuesday, August 21, 2007

By:


Donald V. Williams